



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0137]

Entry-Level Driver Training: National Ground Water Association; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the exemption request from the National Ground Water Association (NGWA). NGWA sought an exemption from the entry-level driver training (ELDT) regulations “for individuals operating class B ground water well drilling rigs.” FMCSA analyzed the exemption application and public comments and determined that the exemption would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-2722. E-mail: richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA-2022-0137” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA-2022-0137” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation Requirements

The ELDT regulations, implemented on February 7, 2022 and set forth in 49 CFR part 380, subparts F and G, establish minimum training standards for individuals applying for certain commercial driver's licenses (CDLs) and define curriculum standards for theory and behind-the-wheel (BTW) training. They also established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and requirements for ELDT instructors. Under 49 CFR 380.609(a), an individual who applies, for the first time, for a Class A or Class B CDL, or who upgrades to a Class A or B CDL, must complete driver training from a provider listed on the TPR, as set forth in subpart G.

Applicant's Request

NGWA states that it is the country's largest professional association representing water well contractors, groundwater scientists, and manufacturers and suppliers of groundwater technology. NGWA seeks an exemption from the ELDT regulations "for individuals operating class B ground water well drilling rigs" which transport water well field equipment used to access ground water. NGWA states that increasing demands for groundwater and private water wells, along with labor and supply shortages, have contributed to delays in drilling new water wells. NGWA believes that the exemption, if granted, would allow ground water well drilling rig operators to receive on-the-job training, which could save hundreds of hours each year for water well contractors. NGWA asserts that, if the exemption was granted, on-the-job "safe driver" training would be provided to drivers covered by the exemption prior to "taking their CDL exam." NGWA did not, however, provide details regarding such training or how the training would achieve a level of safety equivalent to or greater than the level of safety achieved by complying with the ELDT regulations.

IV. Public Comments

On July 7, 2022, FMCSA published notice of this application and requested public comments (87 FR 40581). The Agency received 18 comments: nine in support, eight in opposition, and one neutral. The Owner-Operator Independent Driver's Association (OOIDA) and the AFL-CIO/Transportation Trades Department (AFL-CIO/TTD) both strongly opposed the exemption request, along with six other individuals/small companies. OOIDA cited a number of reasons for its opposition, including its participation as an industry stakeholder on the Entry-Level Driver Training Advisory Committee when the "framework" of the ELDT regulations were agreed upon. OOIDA believes this exemption could allow individuals who drive Group B water well drilling rigs to drive other types of Group B vehicles without sufficient knowledge of basic commercial motor vehicle maneuvers, which would not result in an equivalent level of safety. The AFL-CIO/TTD also opposed the request, stating that there are alternatives that would ensure equivalent levels of safety without undermining the applicability of the ELDT requirements that are designed to protect workers and the public.

Nine commenters supported the request, including representatives from the ground water well industry, such as the Florida Ground Water Association and the Georgia Association of Ground Water Professionals. Those filing in support primarily cited the shortage of CDL drivers in their industry, and the fact that ground water well companies are, for the most part, already conducting in-house driver training. They further cited the added costs of the ELDT requirements, which they assert discourage younger individuals from seeking and applying for a CDL in their industry.

VI. Equivalent Level of Safety Analysis and Decision

FMCSA denies the exemption. Although the NGWA stated that it would provide on-the-job "safe driver" training to drivers covered by the exemption prior to obtaining their CDL, NGWA did not provide any details of that training or explain how such

training would provide an equivalent or greater level of safety as compliance with the existing regulations, as required by 49 CFR 381.310(c)(5). FMCSA therefore has no basis to conclude that the training would likely ensure an equivalent or greater level of safety as would be achieved absent the exemption, as required by statute (49 U.S.C. 31315(b)(1)).

For the above reasons, NGWA's exemption application is denied.

Robin Hutcheson,
Administrator.

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